

RETURN DATE: OCTOBER 3, 2017

COMMISSION ON HUMAN RIGHTS
AND OPPORTUNITIES

v.

RICHARD CANTILLON, ET AL.

SUPERIOR COURT

J.D. OF NEW BRITAIN

AT NEW BRITAIN

AUGUST 30, 2017

PETITION OF ADMINISTRATIVE APPEAL

To the Superior Court for the Judicial District of New Britain at New Britain comes now the Commission on Human Rights and Opportunities ("Commission"), which has exhausted all available administrative remedies and is aggrieved by a final decision of a Human Rights Referee of the Commission, and which appeals therefrom pursuant to Conn. Gen. Stat. § 46a-94a and in accordance with Conn. Gen. Stat. § 4-183.

In support thereof, the Commission complains and states:

1. The plaintiff Commission is an agency of the State of Connecticut, charged with duties that include the receipt, mediation, investigation, conciliation, and prosecution of complaints alleging discriminatory practices pursuant to Chapter 814c of the Connecticut General Statutes.
2. In bringing this appeal, the plaintiff Commission acts through the office of its legal counsel, which is responsible for prosecuting complaints of discrimination on behalf and in the interest of the people of the State of Connecticut, and which is charged by Conn. Gen. Stat. § 46a-55 with representing the Commission in legal proceedings involving such complaints.
3. The first defendant is Richard Cantillon, the respondent in the underlying action, to whom the defendant Commission mailed notice of its final decision by certified mail at 488 Perkins Avenue, Unit 6-8, Waterbury, CT 06704. Mr. Cantillon is a

nominal defendant whom the plaintiff Commission is required by Conn. Gen. Stat. § 4-183 to make a party to this appeal and serve with a copy of this petition.

4. The second defendant is the Commission, which in this case acted through Human Rights Referee Elissa T. Wright in issuing the final decision from which this appeal is taken. The Commission's place of business is located at 450 Columbus Boulevard, Hartford, CT 06103.
5. The third defendant is Kelly Howard, the complainant in the underlying action, to whom the defendant Commission mailed notice of its final decision by certified mail at 488 Perkins Avenue, Unit 6-5, Waterbury, CT 06704. Ms. Howard is a nominal defendant whom the plaintiff Commission is required by Conn. Gen. Stat. § 4-183 to make a party to this appeal and serve with a copy of this petition.
6. On June 8, 2015, Howard filed a complaint with the Commission against Cantillon. Although the complaint best speaks for itself, it charged that Cantillon, Howard's neighbor, discriminated against, harassed, and threatened Howard on the basis of her race and color in violation of Conn. Gen. Stat. § 46a-64c, as well as Conn. Gen. Stat. § 46a-58(a) based on a deprivation of rights under Title VIII of the Civil Rights Act of 1968 as amended, 42 U.S.C. § 3601, et seq.
7. Cantillon failed to answer the complaint. Default was requested and granted, with an order of default entered against Cantillon on or about October 29, 2015.
8. On or about December 7, 2015, a notice was issued informing Howard and Cantillon that a hearing in damages had been scheduled pursuant to the order of default. The notice indicated that Elissa T. Wright, a Human Rights Referee of the defendant Commission, had been appointed to conduct the hearing.

9. The hearing in damages was held on or about April 27, 2016 to determine the relief necessary to eliminate the discriminatory practice and make the complainant whole. The plaintiff Commission and Howard were present at the hearing, but Cantillon failed to appear.
10. The defendant Commission, through Referee Wright, issued a final decision on the hearing in damages on June 12, 2017. The decision including findings that Cantillon had subjected Howard and her family to racial slurs, obscene gestures, and other forms of harassment upwards of five times a week; that Cantillon threatened Howard with violence on several occasions, once nearly hitting Howard with a shovel; and that Howard was forced to call the police upwards of twenty to thirty times over the course of several years. Ultimately, however, the decision only awarded Howard \$15,000 in emotional distress damages.
11. The plaintiff Commission filed a request for reconsideration of the final decision on June 27, 2017 pursuant to Conn. Gen. Stat. § 4-181a. The defendant Commission failed to decide whether to reconsider the final decision by July 24, 2017. The petition is therefore rendered denied, pursuant to Conn. Gen. Stat. § 4-181a.
12. The decision of the defendant Commission, through the Human Rights Referee, has substantially prejudiced the rights of the plaintiff Commission in that it is:
 - a. in violation of constitutional or statutory provisions;
 - b. made upon unlawful procedure;
 - c. affected by other error of law;
 - d. clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; and/or

- e. arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

13. By way of illustration, and not limitation, the decision of the defendant Commission, through the Human Rights Referee, violates Conn. Gen. Stat. § 4-183 in that, among other errors, it:

- a. Awarded a reduced amount of emotional distress damages based on a criterion without support in statute, regulation, or prior case law;
- b. Erroneously concluded that, as a neighbor, Cantillon “lacked an ability to oppress or penalize” Howard or was otherwise less able to interfere with her fair housing rights;
- c. Erroneously concluded that Cantillon’s discriminatory acts were not visible or readily apparent to other persons, despite having been observed by at least two witnesses;
- d. Arbitrarily considered the presence of witnesses to be a requirement for emotional distress damages awards resulting from racial slurs, harassment, or discriminatory threats of violence; and
- e. Failed, in the amount of emotional distress damages awarded, to eliminate the effects of discriminatory conduct, deter such discrimination from occurring in the future, or make the complainant whole.

14. The plaintiff Commission is aggrieved by the decision of the defendant Commission, through the Human Rights Referee, in that:


- a. The formulation and amount of the emotional distress damages award was premised on error; and

- b. The improper application of the law to this case by the Human Rights Referee will, if not corrected, thwart the Commission's statutory mandate of enforcing Connecticut's civil rights and antidiscrimination statutes, in this case as well as in those to come.

WHEREFORE, the Commission requests that:

1. This appeal be sustained;
2. The Court remand this case to the Commission for further proceedings; and
3. The Court grant such other and further relief as it deems just and proper.

**COMMISSION ON HUMAN RIGHTS
AND OPPORTUNITIES**

By: 
Michael Roberts, Human Rights Attorney
CHRO Legal Division – Juris No. 405680
450 Columbus Blvd., Ste. 2, Hartford, CT 06103
Tel: (860) 541-4715 | Fax: (860) 246-5265
Email: michael.e.roberts@ct.gov

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STATEMENT OF AMOUNT IN DEMAND

This is a statutory action seeking relief that is purely equitable in nature, pursuant to Conn. Gen. Stat. § 46a-94a and in accordance with Conn. Gen. Stat. § 4-183.

**COMMISSION ON HUMAN RIGHTS
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By:



Michael Roberts, Human Rights Attorney
CHRO Legal Division – Juris No. 405680
450 Columbus Blvd., Ste. 2, Hartford, CT 06103
Tel: (860) 541-4715 | Fax: (860) 246-5265
Email: michael.e.roberts@ct.gov

CERTIFICATION

I certify that a copy of the foregoing will be served on August 30, 2017 by United States mail sent certified, postage prepaid, return receipt requested, as follows:

Commission on Human Rights and Opportunities
450 Columbus Blvd., Suite 2
Hartford, CT 06103

Richard Cantillon
488 Perkins Ave., Unit 6-8
Waterbury, CT 06704

Kelly Howard
488 Perkins Ave., Unit 6-5
Waterbury, CT 06704

A handwritten signature in cursive script, reading "Michael Roberts", written in black ink.

Michael Roberts, Human Rights Attorney
Commissioner of the Superior Court